IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 26TH SEPTEMBER 2007 / 4TH ASWINA 1929

Bail Appl..No. 5847 of 2007()

[CRIME NO.244/2007 OF KARIMANNOOR POLICE STATION]

: PETITIONERS/ACCUSED NOS.1 TO 4

1. JOBY.M.JOHN, AGED 34,
S/O.JOHN, MUNDACKAL (H), KARIMANNOOR VILLAGE,
EZHAMATTOM P.O., THODUPUZHA.

2. CHINNAMA JOHN, AGED 55,
W/O JOHN, MUNDACKAL (H), KARIMANNOOR VILLAGE,
EZHAMATTOM P.O., THODUPUZHA.

3. JOHN, AGED 58,
S/O.OUSEPH JOHN, MUNDACKAL (H),
KARIMANNOOR VILLAGE, EZHAMATTOM P.O.,
THODUPUZHA.

4. JOMY TOJO,
D/O JOHN, KOMBARATHOTTATHIL,
KALLOORKAD KARA, MUVATTUPUZHA.

BY ADV. SRI.RENJITH B.MARAR
SMT.LAKSHMI.N.KAIMAL

RESPONDENTS:

STATE OF KERALA,
REPRESENTED BY THE SUB INSPECTOR OF POLICE,
KARIMANNOOR POLICE STATION,
THROUGH THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 26/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.5847 of 2007

Dated this the 26th day of September 2007

O R D E R

Application for anticipatory bail. The petitioners are husband of the de facto complainant and his relatives. They face allegations under Section 498A I.P.C. There was an allegation under Section 324 I.P.C also; but later the said allegation has been deleted. Crime was registered on the basis of a private complaint filed before the learned Magistrate and referred by the learned Magistrate to the police under Section 156(3) Cr.P.C. Marriage took place on 12/10/2003. The spouses are blessed with one child. Matrimonial proceedings are pending before the matrimonial courts. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that because of the strain in the matrimony, exaggerated, false and fanciful allegations are being raised by the de facto complainant. It is prayed that directions under Section 438 Cr.P.C may be issued to save the petitioners from the undeserved trauma of arrest and detention.

3. The learned Public Prosecutor does not oppose the said prayer. I reckon the stand taken by the learned Public Prosecutor is fair and reasonable. I take note of the reality that the arrest and incarceration of the petitioners is likely to close the doors of any attempt of harmonious settlement of the matrimonial dispute. I do further note that there is absolutely no specific physical injury corresponding to the allegations of cruelty raised. I am, in these circumstances, satisfied that subject to appropriate conditions, anticipatory bail can be granted.

4. In the result, this petition is allowed. Following directions are issued under Section 438 Cr.P.C in favour of the petitioners.

i) Petitioners shall surrender before the learned Magistrate having jurisdiction at 11 a.m on 03/10/2007.

ii) They shall be released on regular bail on condition that they execute bonds for Rs.25,000/-(Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

iii) The petitioners shall make themselves available for interrogation before the investigating officer between 10 a.m and 1 p.m on 04/10/2007 and 05/10/2007 and thereafter on all Mondays and Fridays between 10 a.m and 1 p.m for a period of two months. Subsequently the petitioners shall so appear as and when directed by the investigating officer in writing to do so.

(iv) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law, as if these directions were not issued at all.

(v) If they were arrested prior to 03/10/2007, they shall be released from custody on their executing a bond for Rs.25,000/- (Rupees twenty five thousand only) without any sureties, undertaking to appear before the learned Magistrate on 03/10/2007.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007